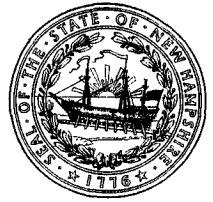




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

July 26, 2006

Michael D. Hatem
Hatem & Donovan, P.C.
215 Main Street – Suite 1
Salem, NH 03079

Re: Docket No. NPLA 06-001 – Kurt Meisner, Meisner-Brem Corporation

Dear Attorney Hatem:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY

Michael P. Scalfani,
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner
Harry T. Stewart, P.E., Director, Water Division
Jennifer J. Patterson, NH DOJ
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Richard J. de Seve, DES WD
William E. Evans, DES WD
Board of Selectmen, Town of Salem
Health Officer, Town of Salem
Phillip and Georgette Smith
Lawrence and Susan Levine
Sidney Wolk

Kurt Meisner, #1067
Meisner-Brem Corporation
151 Main Street
Salem, NH 03079

**ADMINISTRATIVE FINE AND
LICENSE ACTION
No. 06-001**

Re: #CA1998008139, Salem, NH

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Water Division ("the Division") and Kurt Meisner, an individual holding septic designer's license #1067 issued by the New Hampshire Department of Environmental Services ("DES"), parties to the above-captioned matter, and stipulate to the following:

1. RSA 485-A:29 authorizes the Department of Environmental Services ("DES") to review and approve subdivisions of land, and design and installation of subsurface sewage disposal systems. RSA 485-A:35, I, authorizes the Commissioner of DES to license designers of subsurface waste disposal systems ("septic systems"). RSA 485-A:41 authorizes the Commissioner to adopt rules to implement the subsurface sewage disposal system program. Pursuant to this authority, the Commissioner has adopted NH Admin. Rules Env-Ws 1000.
2. Pursuant to RSA 485-A:43, V, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 485-A:29 through RSA 485-A:44, inclusive and including any rule adopted thereunder. Pursuant to this section, the Commissioner has adopted Env-C 604 to establish the schedule of fines for such violations.
3. On April 24, 2006, the Division issued Notice of Proposed License Action No. 06-001 ("the Notice") to Kurt Meisner, seeking the revocation of his septic system designer's license and administrative fines.
4. The Notice cited Kurt Meisner for violating RSA 485-A:43. The Division proposed that DES suspend, revoke or refuse to renew septic designer license #1067 issued to Kurt Meisner, pursuant to RSA 485-A:35, I and/or impose an administrative fine upon Kurt Meisner in the amount of \$2,000, pursuant to RSA 485-A:43, V, and Env-C 604.02(d).
5. In order to settle this matter, the Division and Kurt Meisner have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
6. Kurt Meisner agrees to pay the amount of \$2,000 to DES upon execution of the Agreement.

7. Payment due pursuant to Paragraph #6 shall be paid by certified or corporate check made payable to: "Treasurer, State of New Hampshire" and mailed to:

Department of Environmental Services - Legal Unit
Attn: Michael Sclafani, Legal Assistant
P.O. Box 95, Concord, NH 03302-0095

8. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

9. By executing this Agreement, Kurt Meisner waives his right to a hearing on or any appeal of the administrative fine identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

10. The parties have entered into this Agreement to avoid the time and costs of litigation. This Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Kurt Meisner; (ii) an admission by Kurt Meisner or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Kurt Meisner might raise in any third party proceeding.

11. Kurt Meisner shall not challenge the validity of the violations alleged herein in the context of any future proceeding *by DES* assessing the compliance history of Kurt Meisner and alleging violations of the New Hampshire Code of Administrative Rules or statutes, or in any proceeding to enforce this Agreement.

12. The effective date of this Agreement will be the date on which it is signed by Kurt Meisner, the Director of the Water Division, and accepted by the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

13. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Date

7-14-06

Respectfully submitted,

COPY

Kurt Meisner, Licensee

NH Septic Designer License #1067

Date

7/24/06

DES Water Division

COPY

Harry T. Stewart, P.E., Director

This Motion to Accept Settlement agreement is granted this 25th day of July, 2006.

COPY

Michael P. Nolin, Commissioner

Department of Environmental Services

cc: Michael J. Walls, DES Assistant Commissioner
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
James Martin, DES Public Information Officer
William E. Evans, P.E., Administrator, DES/SSB
Richard J. de Seve, DES/SSB
Gretchen Hamel, Administrator, DES Legal Unit
Board of Selectmen, Town of Salem
Brian Lockard, Health Officer, Town of Salem
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